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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

JOHN COFFEE, MEI-LING MONTANEZ,
 and S.M., a minor by MEI-LING
 MONTANEZ, S.M.'s parent and guardian, on
 behalf of themselves and all others similarly
 situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 5:20-cv-03901-BLF

**PLAINTIFFS' PROFFER RE: MOTION TO
 DISMISS FIRST AMENDED CLASS
 ACTION COMPLAINT**

CLASS ACTION

District Judge Beth Labson Freeman
 Courtroom 3, 5th Floor, San Jose

Complaint Filed: June 12, 2020
 Trial Date: Not Set

JURY TRIAL DEMANDED

On October 19, 2021, the Court held oral argument regarding Defendant's Motion to Dismiss Plaintiffs' First Amended Complaint. *See* ECF No. 76. The Court inquired whether Plaintiffs purchased loot boxes directly from Google with money or bought virtual currency from Google with money, and then purchased loot boxes with the virtual currency in a two-step transaction. Following up on this factual issue after the hearing Plaintiffs' counsel confirmed that Plaintiff John Coffee purchased loot boxes directly from Google with fiat money on at least 11 occasions.

Attached as **Exhibit A** is a copy of Plaintiff Coffee's Google Play Store order history. The order history reflects purchases by Mr. Coffee from during the proposed class and indicates that he made the following purchases from Google with fiat money:

Mobile App Game	Item Description	Date	Purchase Amount
Puzzles and Dragons	2 Magic Stones & Egg Set E	March 27, 2019	\$1.99
Puzzles and Dragons	Special One-Time Bargain Set A	August 4, 2018	\$4.99
Clash Royale	Electro Valley Arena Pack	December 12, 2017	\$9.99
Clash Royale	Arena 9 Starter Pack	April 30, 2017	\$9.99
Clash Royale	Jungle Arena Pack	March 9, 2017	\$9.99
Clash Royale	Barbarian Bowl Arena Pack	February 25, 2017	\$0.99
Clash Royale	Spell Valley Arena Pack	February 15, 2017	\$4.99
Clash Royale	P.E.K.K.A's Playground Arena Pack	January 31, 2017	\$0.99
Clash Royale	Arena 8 Starter Pack	January 30, 2017	\$9.99
Clash Royale	Arena 7 Starter Pack	January 24, 2017	\$9.99
Clash Royale	Arena 6 Starter Pack	January 23, 2017	\$4.99

The order history shows Mr. Coffee purchased loot boxes directly with fiat money in connection with the following games:

a. Puzzles and Dragons: The "Egg Machine" is the name of a loot box in Puzzles and Dragons. The "Special One-Time Bargain Set A" that Mr. Coffee purchased included one play on an Egg Machine loot box. *See* <https://www.puzzleanddragons.us/single-post/2019/10/18/special-one-time-bargain-set-reset>. The "2 Magic Stones & Egg Set E" that Mr. Coffee purchased from Google also included one play on an Egg Machine loot box. *See* <https://www.puzzleanddragons.us/single-post/2020/10/08/deadly-sin-dragons-key-heroes>.

b. Clash Royale: A “Chest” is the name of a loot box in Clash Royale. The purchase of a “Pack” includes one or more chest loot boxes. For example, the image below depicts that an Electro Valley Arena Pack, which Mr. Coffee purchased from Google for \$9.99 on December 12, 2017, contains virtual currency (gold and gems) and a “Legendary Chest” loot box:



Given this proffer, in the event the Court grant Defendant’s motion to dismiss—which Plaintiffs believe should be denied—then Plaintiff Coffee requests leave to amend in the event the Court’s ruling turns on the factual question of whether a direct payment of money was made to Google to purchase a loot box.

Respectfully submitted,

Dated: October 27, 2021

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By: s/ Timothy G. Blood
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EXHIBIT A

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Google Play

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Total you've spent in October

Your budget only applies to this account, and you can change it at any time.

Set budget

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[REDACTED]

	2 Magic Stones & Egg Set E	\$1.99	Mar 27, 2019	Apps	Report a problem
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[illegible]

[illegible]

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Rewards	Order history	Family	
	Arena 9 Starter Pack	\$9.99	Apr 30, 2017 Apps Report a problem
	Jungle Arena Pack	\$9.99	Mar 9, 2017 Apps Report a problem
	Barbarian Bowl Arena Pack	\$0.99	Feb 25, 2017 Apps Report a problem
	Spell Valley Arena Pack	\$4.99	Feb 15, 2017 Apps Report a problem

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PE.K.K.'s Playhouse Arena Pack

\$0.99

Jan 31, 2017

Apps

Report a problem

Arena 8 Starter Pack

\$9.99

Jan 30, 2017

Apps

Report a problem

Arena 7 Starter Pack

\$9.99

Jan 24, 2017

Apps

Report a problem

Arena 6 Starter Pack

\$4.99

Jan 23, 2017

Apps

Report a problem

[https://play.google.com/store/account/orderhistory](#)

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A large black rectangular redaction box covers the majority of the page, obscuring all text and graphics. Only a small portion of the right margin and a small icon in the bottom right corner are visible.

The screenshot displays the Google Play Store's "Entertainment" category page. On the left, there is a vertical sidebar menu with icons and labels for "Apps", "Movies & TV", "Books", and "Devices". Below these are links for "Account", "Payment methods", "Play Points" (showing a balance of 2,407), "My subscriptions", "Redeem", "Buy gift card", "My wishlist", "My Play activity", and "Parent Guide". The top navigation bar includes "Rewards", "Order history", and "Family" tabs. The main area of the screen is currently blank, suggesting a loading state or an empty selection. In the bottom right corner, there is a small icon for a circular arrow and a link labeled "Privacy - Terms".

A large black rectangular redaction box covers the majority of the page, obscuring all text and graphics. Only a small portion of the right margin and a small icon in the bottom right corner are visible.

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| Location: United States Language: English

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 27, 2021.

s/ Timothy G. Blood

TIMOTHY G. BLOOD